



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. 10/742,892  
Inventor: LAYFIELD, Jack et al  
Filing Date: 23 December 2003  
Title: MODULAR PREFABRICATED SPA  
Examiner: PHILLIPS, Charles E.  
Group Art Unit: 3751  
Docket: 039209-0002US

November 23, 2006

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Dear Sir:

This communication is filed in response to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed October 26, 2006.

The Notice of Non-Compliant Amendment stated that the drawings filed with the amendment dated October 11, 2006 did not comply with 37 CFR 1.121(d). The Applicant has attached replacement Formal Drawings which include the header "Replacement Sheet", as required by 37 CFR 1.121(d). The Applicant requests that the attached Formal Drawings be substituted for the drawings filed with the amendment dated October 11, 2006.

The Notice of Non-Compliant Amendment also stated that an additional \$100 fee was due for one additional independent claim. The Applicant attaches the identified payment. However, the Applicant disputes that any additional fees are payable. For convenience, the Applicant has reproduced a segment of MPEP 706.07(h) below:

11/27/2006 MAHRED1 00000016 10742892

01 FC:2201

100.00 OP

**MPEP 706.07(h) Request for Continued Examination (RCE) Practice**

**III. Initial Processing**

**D. Treatment of Proper RCE**

Unlike a CPA, applicant does not need to pay a fee for excess claims previously paid for prior to the filing of the RCE. Of course, new claims in excess of the number previously paid for, which are filed with the RCE or thereafter, will require payment of the appropriate fee(s) under 37 CFR 1.16.

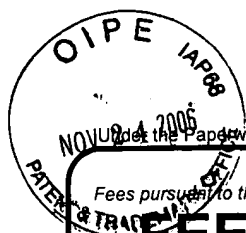
The subject patent application was originally filed with five (5) independent claims, and subsequently amended on May 19, 2006 to include six (6) independent claims. The Fee Transmittal Form (PTO/SB17) which accompanied the amendment of May 19, 2006 included payment in the amount of \$100 for one (1) additional independent claim. The Applicant has attached a copy of form PTO/SB17, as received at the Central Fax Center of the United States Patent and Trademark Office.

The amendment which accompanied the Request for Continued Examination dated October 11, 2006 did not place any additional independent claims on file. Therefore, the Applicant submits that no additional claims fees are payable, pursuant to MPEP 706.07(h).

Respectfully submitted,  
HEENAN BLAIKIE LLP

By 

Robert Graham  
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PTO/SB/17 (07-06)

Approved for use through 01/31/2007. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# FEE TRANSMITTAL

## For FY 2006

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 100.00

**Complete if Known**

Application Number	10/742,892
Filing Date	December 23, 2003
First Named Inventor	Layfield
Examiner Name	Phillips, Charles E.
Art Unit	3751
Attorney Docket No.	039209-0002US

**METHOD OF PAYMENT (check all that apply)**☐ Check ☒ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_☐ Deposit Account Deposit Account Number: \_\_\_\_\_ Deposit Account Name: \_\_\_\_\_

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee☐ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

**2. EXCESS CLAIM FEES****Fee Description**

	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
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\_\_\_\_\_ - 20 or HP = \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
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\_\_\_\_\_ - 3 or HP = \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

HP = highest number of independent claims paid for, if greater than 3.

	Fee (\$)	Small Entity Fee (\$)
Multiple Dependent Claims		
Fee (\$)		Fee Paid (\$)

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
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\_\_\_\_\_ - 100 = \_\_\_\_\_ / 50 = \_\_\_\_\_ (round up to a whole number) x \_\_\_\_\_ = \_\_\_\_\_

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): \_\_\_\_\_

Fees Paid (\$)

**SUBMITTED BY**

Signature

Registration No.  
(Attorney/Agent) 43,430

Telephone 416-360-3524

Name (Print/Type)

Robert J. Graham

Date Nov. 22/06

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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